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August 3, 2022

VIA ECF

Hon. Ronnie Abrams, U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: Liberty Mutual Fire Insurance Company v. Zurich American Insurance Company of Illinois Civil Action No. : 1:22-cv-00499-RA

Dear Judge Abrams:

Our firm represents LIBERTY MUTUAL FIRE INSURANCE COMPANY (“Liberty Mutual”) in the above-captioned matter. We submit this joint letter with counsel for ZURICH AMERICAN INSURANCE COMPANY (“Zurich American”) to advise the Court of a resolution of the pending Motion to Quash the subpoenas of Marc D. Freedman and Len Paterek (Doc. No. 17) and to request a short extension of the discovery schedule to accommodate the non-party witnesses.

In communications with Mr. Freedman, as counsel for himself and Mr. Paterek, we reached the following agreement regarding the subpoenas and the motion to quash.

1. With respect to the request for documents with respect to the subpoena on Mr. Freedman, Mr. Freedman agrees to produce copies of the documents constituting communication with Amanda Rose, Esq., Associate General Counsel for BlueStream Professional Services, LLC (“BlueStream”), concerning the release agreement at issue and drafts exchanged of such agreement, consistent with the subpoena. Mr. Freedman represented that all his communications with BlueStream that would be responsive to the subpoena were with Ms. Rose.
2. With respect to the request for documents with respect to the subpoena on Mr. Paterek, Mr. Paterek agrees to produce any such non-privileged and non-work product documents responsive to the subpoena to the extent that they exist.
3. Mr. Freedman further agreed that he will make himself available for a remote deposition on a mutually convenient date between August 17, 2022 and

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September 2, 2022. Zurich American will attend the remote deposition from a location different from Mr. Freedman. Mr. Freedman's partner, Steve Friedland, Esq., may be physically present with Mr. Freedman during the remote deposition. Mr. Freedman additionally represented that Mr. Paterek will make himself available for a remote deposition on a mutually convenient date between August 17, 2022 and September 2, 2022. Similarly, any attorney representing Mr. Paterek or Zurich American will attend his deposition remotely. The intent is that no one party will have the advantage of being in person while the other party is attending remotely.

The current fact discovery deadline is August 12, 2022. In light of the unavailability of the non-party witnesses prior to the fact discovery deadline, we respectfully requests a 30-day extension to the fact discovery deadline, to September 12, 2022. Pursuant to Rule 16(b)(4) of the Fed. R. of Civ. Proc., the Case Management Plan and Scheduling Order (Doc. No. 14) (the "Scheduling Order") may be modified upon a showing of good cause, which exists here. The parties have actively engaged in discovery in this matter, and have thus far complied with the interim discovery deadlines set in the Scheduling Order, including an exchange of interrogatories and document requests. Liberty Mutual did issue the Freedman Subpoena and Paterek Subpoena within the deadlines set in the Scheduling Order, however, due the current litigation over the subpoenas, the non-parties have represented that they cannot reasonably comply with them by the fact discovery deadline of August 12, 2022. As such, the parties respectfully request a 30-day extension of the fact discovery deadline, to September 12, 2022. A revised Proposed Case Management Plan and Scheduling Order is enclosed herein as Exhibit "1".

In light of this agreement, Mr. Freedman advises that he withdraws his motion. He asked us to prepare and submit this letter.

We thank the Court for its consideration of these requests.

Respectfully submitted,

Mackenzie Warner

Mackenzie Warner

MW:mw
Enc.

cc: Marc D. Freedman, Esq. (via ECF)
Steven M. Friedland, Esq. (via ECF)

Respectfully submitted,

Alexandra Rigney

Alexandra Rigney

Application granted. The status conference presently scheduled for August 26, 2022 is hereby rescheduled to October 6, 2022 at 4:00 p.m. The conference line information is as follows: Call-in Number: (888) 363-4749; Access Code: 1015508.

The Clerk of Court is respectfully directed to terminate the motion pending at Dkt. 17.

SO ORDERED.



Hon. Ronnie Abrams
8/4/22